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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,733

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David R. Dodds

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6368

7590

03/29/2005

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EXAMINER

HYEON, HAE M

ART UNIT

PAPER NUMBER

2839

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/758,733

Applicant(s)

DODDS ET AL.

Examiner

Hae M. Hyeon

Art Unit

2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-10 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 3-5,11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on March 7, 2005. These drawings are approved.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: Claim 3, line 1 recites, "the molded plastic button." Since claim 2 reciting "the molded plastic button" has been changed to - the colored plastic button --, the examiner suggests the applicant to amend claim 3 the same as claim 2.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 8-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8, line 2 recites that the housing has an engagement feature, but it is not clear what is the engagement feature because claim 8 does not recite what is being engaged with the engagement feature. The examiner suggests the applicant to insert -- transceiver module -- in front of "engagement feature."

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 6-10, 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens et al (6,789,958 B2) in view of Schwer (5,741,153).

Ahrens discloses a data transmission system comprising a transceiver module 400 with a housing 410, a cage 160, a printed circuit board 130, and an indicator 460. The cage 160 is fixed to the printed circuit board 130. The cage 160 has an opening 165 and a latch 170 adjacent the opening 165. The housing 410 of the transceiver module 400 is placed into the opening 165 of the cage 160 and is retained within the cage 160 by the latch 170. The transceiver module is removable from the cage 160 by deflecting the latch 170 with a release mechanism 450. The release mechanism 450 is coupled to the housing 410 and is separate from the indicator 460. The indicator 460 is secured to the transceiver module 400 and is shaped to form at least a portion of a receptacle 412 of the transceiver module 400. While Ahrens teaches putting a suitable message on a curved surface 465 of the indicator 460, Ahrens does not disclose putting a color for mode indication of the transceiver module. Also, the indicator 460 of Ahrens is not a stationary attachment to a corresponding transceiver module engagement feature. However, the use of color coding is well known. Also, it is common knowledge that any desired information could be assigned to the color coding by a user or a designer.

Art Unit: 2839

Schwer discloses modular connectors 10 including a plastic button (mode indicator) having an engagement feature configured for stationary attachment to the modular connectors 10 and for indicating a port number and/or type.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the indicator taught by Ahrens such that it would have a stationary indicator as taught by Schwer because it only deals with making the indicator separate from a transceiver module. It has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Furthermore, color coding is well known and it is commonly knowledge that any desired information could be assigned to a color coding by a user or a designer.

#### *Allowable Subject Matter*

7. Claims 3-5, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

8. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. It is unnecessary, however, that inventions of references be physically combinable to render obvious an applicant's invention. *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983). The test for obviousness is not whether the features of a reference may be bodily incorporated into the structure of another reference but what the combined teachings of those references would have suggested to those of ordinary skill in the art. *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871,881 (CCPA 1981).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hae M. Hyeon whose telephone number is 571-272-2093. The examiner can normally be reached on Mon.-Fri. (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tulsidas C. Patel can be reached on (571) 272-2098. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hae M Hyeon  
Primary Examiner  
Art Unit 2839

hnh

hnh

Hae Moon Hyeon